

201505360

Numael Amador

On March 29, 2015, at 9:45 Daniel Teitell was in Maria Hernandez park in North Brooklyn when he saw PO Numael Amador and another officer speaking with a man on a park bench, and then lift the man off the bench. Concerned that the officers were engaging in misconduct, he took out his cell phone and began recording the incident.

After he did so, PO Amador approached him, handcuffed him, took the phone, and arrested him for being in the park after closing.

In his CCRB interview, PO Amador stated that he was not aware if Mr. Teitell was recording or not, and that he only approached him in order to arrest him for being in the park after closing. He stated that he was familiar with the rules of the park, that the park closed at dusk, and that the rules on closure had not changed for at least eighteen months.

PO Amador's sergeant testified that when he arrived, PO Amador told him that the man had been arrested for being in the park after dark and for "filming" the officers.

As posted signs in the park show, the park is open until 10 pm. The park was not closed when PO Amador arrested the man for being the park after closure.

The man stated that as PO Amador approached him, PO Amador called him a "smartass" and a "lawyer." PO Amador denied these statements, and the recording was without audio.

The CCRB found that PO Amador had improperly stopped and arrested Mr. Teitell for exercising his right to observe and film police officers. It further found that he made a false statement when he claimed that he knew the park closed at dusk.

At PO Amador's departmental trial, the NYPD administrative law judge noted that Mr. Teitell stated that he recorded the officers because "It's been my experience and observation that people of color are often not treated as well by police officers." The ALJ, Robert Vinal, held that based on this statement, "Teitell's testimony must be closely scrutinized in light of the fact that he betrayed what can be characterized as preconceived notions about police encounters with civilians."

The ALJ credited PO Amador's statement that he sincerely believed that the park had been closed since dusk, and discredited Mr. Teitel's claim that PO Amador spoke discourteously to him. It took no consideration of the fact that PO Amador had testified that he knew the park rules and that being filmed played no role in the arrest. The ALJ recommended that PO Amador forfeit 2 vacation days, and that was the penalty imposed by the NYPD.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tiffany Dempsey	Team: Squad #14	CCRB Case #: 201505360	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 03/29/2015 9:47 PM	Location of Incident: [REDACTED]	Precinct: 83	18 Mo. SOL 9/29/2016	EO SOL 9/29/2016	
Date/Time CV Reported Mon, 06/29/2015 2:09 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 06/29/2015 2:09 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Numael Amador	09643	§ 87(2)(b)	PBBN
2. SGT Alexi Serpani	03257	§ 87(2)(b)	PBBN
3. POM Juan Morales	31941	§ 87(2)(b)	PBBN
4. An officer			PBBN

Officer(s)	Allegation	Investigator Recommendation
A . POM Numael Amador	Abuse of Authority: PO Numael Amador stopped an individual.	A . § 87(2)(g)
B . POM Juan Morales	Abuse of Authority: PO Juan Morales stopped an individual.	B . § 87(2)(g)
C . POM Numael Amador	Abuse of Authority: PO Numael Amador frisked an individual.	C . § 87(2)(g)
D . POM Juan Morales	Abuse of Authority: PO Juan Morales frisked an individual.	D . § 87(2)(g)
E . POM Numael Amador	Abuse of Authority: PO Numael Amador interfered with Daniel Teitell's ability to record a police incident.	E . § 87(2)(g)
F . POM Numael Amador	Abuse of Authority: PO Numael Amador threatened to arrest Daniel Teitell.	F . § 87(2)(g)
G . POM Numael Amador	Discourtesy: PO Numael Amador spoke discourteously to Daniel Teitell.	G . § 87(2)(g)
H . POM Juan Morales	Abuse of Authority: PO Juan Morales frisked § 87(2)(b).	H . § 87(2)(g)
I . An officer	Abuse of Authority: An officer searched § 87(2)(b).	I . § 87(2)(g)
J . POM Juan Morales	Abuse of Authority: PO Juan Morales searched § 87(2)(b).	J . § 87(2)(g)
K . SGT Alexi Serpani	Abuse of Authority: Sgt. Alexi Serpani refused to provide his name and shield number to § 87(2)(b).	K . § 87(2)(g)
L . POM Numael Amador	Abuse of Authority: PO Numael Amador refused to provide his name and shield number to § 87(2)(b).	L . § 87(2)(g)
M . POM Juan Morales	Abuse of Authority: PO Juan Morales refused to provide his name and shield number to § 87(2)(b).	M . § 87(2)(g)
N . POM Numael Amador	Abuse of Authority: PO Numael Amador issued summonses to § 87(2)(b).	N . § 87(2)(g)
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)		
Q . POM Numael Amador	Other: There is evidence suggesting PO Numael Amador provided a false official statement in violation of Patrol Guide Procedure 203-08.	Q . § 87(2)(g)

Case Summary

On March 29, 2015, at approximately 9:47 p.m., PO Numael Amador and PO Juan Morales of Patrol Borough Brooklyn North allegedly stopped and frisked an individual inside Maria Hernandez Park, near the corner of Knickerbocker Avenue and Suydam Street (**Allegations A, B, C and D**). PO Amador approached § 87(2)(b) a bystander who was filming the incident in the park, and interfered with his ability to record the police incident (**Allegation E**). PO Amador allegedly threatened to arrest § 87(2)(b) and allegedly called him a “smartass,” (**Allegations F and G**). PO Morales then frisked and searched § 87(2)(b) and an officer also searched § 87(2)(b) (**Allegations H, I, and J**). Sgt. Alexis Serpani of Patrol Borough Brooklyn North responded to the incident, and he, along with PO Amador and PO Morales, allegedly refused to provide their names and shield numbers to § 87(2)(b) (**Allegations K, L, and M**). PO Amador issued § 87(2)(b) two summonses for violating NYC Department of Parks and Recreation’s Rules and Regulations (**Allegation N**). PO Amador and PO Morales failed to prepare memo book entries for the incident involving an individual (**Allegations O and P**). There is evidence to suggest PO Amador provided a false official statement to the CCRB regarding this incident (**Allegation Q**). The unidentified individual was neither summonsed nor arrested in regards to the incidents (Board Review 5, 6, 9, 10, 11, 12, 13, 14, and 15).

Mediation, Civil and Criminal Histories

- On June 4, 2015, § 87(2)(b) filed a Notice of Claim with the City of New York, claiming the NYPD subjected him to false arrest, unlawful search and seizure, assault and battery, malicious and retaliatory prosecution, racial profiling denial of proper medical care, negligence, and violations of his civil rights; he is seeking monetary restitution. On July 15, 2015, § 87(2)(b) filed a second Notice of Claim with The U.S. District Court of the Eastern District of New York, claiming the NYPD subjected him to false arrest, false imprisonment, and malicious prosecution, and he is seeking compensatory and punitive damages (Board Review 4). As of August 17, 2015, a 50H hearing had not been scheduled (See IAs).
- As a result of the ongoing claims, this case was ineligible for mediation. According to the summons depositions provided by the Criminal Court of the City of New York, on of June 4, 2015, all charges against § 87(2)(b) were dismissed (Board Review 8).
- § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by or involving § 87(2)(b) (Board Review 3).
- PO Amador has been a member of service for two years, and there is only one previous complaint (#201311334) filed against him for a stop and frisk which was closed as Complaint Withdrawn.
- PO Morales has been a member of service for two years and there is one previous allegation against him in case #201501203 for physical force which was administratively closed. PO Morales is also currently a subject in two open CCRB cases. In one, he is the subject of a physical force allegation (#201501529). In the other, he is the subject of physical force, frisk, and search (#201505545).
- Sgt. Alexi Serpani has been a member of service for nine years, and this is the first CCRB complaint filed against him.

Potential Issues

The individual who was allegedly a victim of the initial stop by the officers was unable to be identified via police documents, civilian statements, and/or officer testimony; therefore, the individual was unable to provide a statement in regards to these incidents (Board Review 7, 12, 13, and 14).

Images of the signs located at the entrances of Maria Hernandez Park were obtained via Google Street View from September 2014 (Board Review 16). Additional images of these signs were captured in photos taken by the CCRB field team in July 2015. It is clear from these images that the signs were changed between these dates (Board Review 2). Personnel at NYC Parks and Recreation Department could not confirm the rules listed on the sign prior to the change or the date on which the sign was changed; however, they stated that the rules of the park have not changed within the last year, including the closing time of the park. They also stated that the sign was most likely changed to incorporate other languages, update the commissioners' name, or to fix damages, and was possibly changed in December 2014 (See IAs).

Findings and Recommendations

Explanation of Subject Officer Identification

Video footage confirms PO Amador and PO Morales interacted with an individual prior to interacting with § 87(2)(b) therefore, **Allegations A, B, C and D** are pleaded against both PO Amador and PO Morales. § 87(2)(b) accurately described each officer and distinguished that PO Amador was the operator of the police vehicle and PO Morales was the passenger. PO Amador and PO Morales confirmed interacting with § 87(2)(b) and PO Amador confirmed he was the operator and PO Morales was the passenger. Also, PO Amador's and PO Morales' pedigree information matches that of § 87(2)(b)'s physical descriptions of each officer. As § 87(2)(b) was able to identify and distinguish the officers, **Allegations E, F, G, L, and N** are pleaded against PO Amador, and **Allegations H, J, and M** are pleaded against PO Morales. § 87(2)(b) could not recall for certain which officer, PO Amador or PO Morales, searched his jacket, and neither PO Amador nor PO Morales admitted to searching § 87(2)(b) therefore, the subject officer remains unidentified, and **Allegation I** is pleaded against "An officer." Sgt. Serpani confirmed speaking with § 87(2)(b) and being asked his name; therefore, **Allegation K** is pleaded against Sgt. Serpani.

Recommendations

Allegation A – Abuse of Authority: PO Numael Amador stopped an individual.

Allegation B – Abuse of Authority: PO Juan Morales stopped an individual.

Allegation C – Abuse of Authority: PO Numael Amador frisked an individual.

Allegation D – Abuse of Authority: PO Juan Morales frisked an individual.

§ 87(2)(b) alleged that PO Amador and PO Morales approached an unidentified man in the park and frisked his jacket. § 87(2)(b) could not only provide limited details about the extent of the officers' interaction with this man. Neither § 87(2)(b) PO Amador nor PO Morales knew the identity of this individual. This part of the incident was only partially captured on video footage and the footage was not sufficient to identify the man. The officers' interaction with this man occurred prior to the officers' interaction with § 87(2)(b) (Board Review 12, 13, and 14). No police documents, including memo book entries or stop, question and frisk reports, were completed for the incident. The video footage does not capture the initial stop or the alleged frisk of the individual (Board Review 5, 7, 9, 10, and 11). As such, the identity of the alleged victim remains unknown.

§ 87(2)(g)

Allegation E – Abuse of Authority: PO Numael Amador interfered with § 87(2)(b)'s ability to record a police incident.

Allegation N – Abuse of Authority: PO Numael Amador issued summonses to § 87(2)(b)

It is undisputed that after PO Amador and PO Morales observed § 87(2)(b) standing in Maria

Hernandez Park watching the officers interact with the unidentified individual. PO Amador approached § 87(2)(b) handcuffed him subsequent to § 87(2)(b) refusing to provide identification, and issued § 87(2)(b) two summonses for violating NYC Department of Park and Recreation's Rules and Regulations. It is undisputed that this occurred prior to 10 p.m. The unidentified individual was neither summonsed nor arrested (Board Review 5, 6, 11, 12, 13, 14, and 15).

§ 87(2)(b) alleged that although the officers had already observed him, once PO Amador and PO Morales noticed that § 87(2)(b) had begun video recording their interaction with his cell phone, PO Amador approached § 87(2)(b) asked for his identification, and simultaneously removed § 87(2)(b)'s cell phone from his hand and handcuffed him after § 87(2)(b) questioned whether he was being detained or free to leave (Board Review 12).

PO Amador, PO Morales, and Sgt. Serpani consistently testified that they were familiar with Maria Hernandez Park, the park signs, and the rules and regulations of the park prior to the incident because they often complete patrol assignments within the park (Board Review 13, 14, and 15). On March 29, 2015, PO Amador and PO Morales observed a sign at the park entrance located at Knickerbocker Avenue and Suydam Street which stated the closing time of the park is dusk. PO Morales added that within the last eighteen months, the closing time of the park has not changed (Board 13 and 14).

PO Amador testified that he approached § 87(2)(b) for the sole reason of issuing him a summons for being in the park after dusk, and handcuffed him because § 87(2)(b) refused to provide identification to be summonsed and he intended to transport § 87(2)(b) to the stationhouse. PO Amador confirmed observing § 87(2)(b) with a cell phone in his hand prior to approaching § 87(2)(b) however, PO Amador did not know what § 87(2)(b) was doing with his cell phone, and did not recall what happened to the cell phone once § 87(2)(b) was handcuffed. PO Amador testified that he did not remove the cell phone from § 87(2)(b) and was never made aware that § 87(2)(b) had been video recording the incident, even after having been shown video footage of the incident. Sgt. Serpani and PO Amador later instructed PO Amador to issue § 87(2)(b) a summons, but did not specify for which violation(s). PO Amador testified that he, PO Amador, is "allowed to do whatever [he] wants to do with these situations," and that he used discretion to issue § 87(2)(b) two summonses because § 87(2)(b) violated two separate offenses, being in the park after dusk and failing to comply with a park sign which stated the park closed at dusk (Board Review 6 and 13).

PO Morales testified that he was busy interacting with the unidentified individual and did not see § 87(2)(b) with a cell phone or PO Amador removing a cell phone from him (Board Review 14). Sgt. Serpani, who also confirmed the park closes at dusk, testified that upon arriving at the incident location, he was informed by either PO Amador or PO Morales that § 87(2)(b) was stopped for being in the park after dusk in violation of the park sign, and was handcuffed for video recording the officers, in addition to being in the park after dusk. Sgt. Serpani informed the officers to release § 87(2)(b) with a summons for being in the park after dusk since that was the only violation they had informed him § 87(2)(b) committed. Sgt. Serpani believed § 87(2)(b) was only in violation of one offense, being in the park after dusk, and therefore, should have been issued only one summons (Board Review 15).

According to a photograph of the park sign located outside of Maria Hernandez Park at the Knickerbocker Avenue and Suydam Street entrance, taken on July 1, 2015, Maria Hernandez Park closes at 10 p.m (Board Review 2). In July 2015, the undersigned spoke to personnel from NYC's Department of Parks and Recreation law department and operations unit, and confirmed that the closing time of the park has not changed in at least one year, regardless of whether the sign was updated or renewed (See IAs).

Video footage of the incident shows that after observing § 87(2)(b) who was standing approximately seven to thirteen feet from the officers, PO Amador walked toward § 87(2)(b) and stood in front of

him, obstructing the video's view of PO Morales and an individual. Within ten seconds of approaching § 87(2)(b) PO Amador then reached toward § 87(2)(b)'s cell phone, causing the video footage to shake and blacken, further inhibiting § 87(2)(b)'s ability to video record the incident (Board Review 5 and 11).

§ 87(2)(b)'s summonses issued by PO Amador for being inside of the park after closing and failing to comply with rules listed on a park sign were dismissed in the Criminal Court of the City of New York on June 4, 2015 (Board Review 8).

Due to the photograph of the park sign which states Maria Hernandez Park closes at 10 p.m., and statements from NYC's Department of Parks and Recreation personnel confirming that the closing time of the park had not changed within the last year, the investigation credits that Maria Hernandez Park in Brooklyn, closed at 10 p.m., not dusk, on the date of incident.

An individual may be summonsed for an offense when an officer has reasonable cause to believe that such person committed an offense in their presence N.Y.C.P.L 150.20 (1); 140.10 (1) (a) (Board Review 1). According to the NYC Department of Parks and Recreation's Rules and Regulations, a person is in violation of Section 1-03(3a), when entering or remaining in a park when such park is closed to the public, and in violation of Section 1-03(c2) when failing to comply with or obey regulations displayed on any park sign. Patrol Guide Procedure 208-03 states that it is lawful for onlookers to videotape police incidents (Board Review 1).

The officers professed to being familiar with Maria Hernandez Park and its rules and regulations, a sign was posted outside of the entrance of the park stating that the closing time is 10 p.m., and PO Amador and PO Morales confirmed that they observed the sign prior to entering the park. However, it is clear the park was not closed at the time of the incident and it was not reasonable for the officers to believe it was. § 87(2)(g)

§ 87(2)(b) was not in violation of the above mentioned park rules/regulations or any other violation. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) Sgt. Serpani testified that the officers informed him that § 87(2)(b) was handcuffed because he was video recording them. § 87(2)(b) recalled other civilians jogging in the park who were not stopped, and it is undisputed that the unidentified man with whom the officers interacted was not summonsed. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation F – Abuse of Authority: PO Numael Amador threatened to arrest § 87(2)(b)

Allegation G – Discourtesy: PO Numael Amador spoke discourteously to § 87(2)(b)

It is undisputed that PO Amador placed § 87(2)(b) in handcuffs and conversed with him (Board Review 12 and 13). According to § 87(2)(b) once in handcuffs, PO Amador told § 87(2)(b) that he was going to teach him a lesson, and repeatedly stated that § 87(2)(b) was going to spend at least one night in jail. PO Amador also allegedly told § 87(2)(b) that he was going to show § 87(2)(b) who the boss was and called him a “smartass,” because § 87(2)(b) referenced his constitutional rights during the incident.

PO Amador did not recall telling § 87(2)(b) that he would teach § 87(2)(b) a lesson or have him spend a night in jail, calling § 87(2)(b) a “smartass” (Board Review 13). PO Morales said PO Amador did not tell § 87(2)(b) he was going to teach him a lesson or have him spend one night in jail, and did not call § 87(2)(b) a “smartass” (Board Review 14).

Patrol Guide Procedure 203-09 requires officers to be courteous and respectful in dealing with the public (Board Review 18).

§ 87(2)(g)

It is notable that PO Amador did not actually deny these allegations, but merely said he did not recall saying these things.

§ 87(2)(g)

Allegation K – Abuse of Authority: Sgt. Alexi Serpani refused to provide his name and shield number to § 87(2)(b)

Allegation L – Abuse of Authority: PO Numael Amador refused to provide his name and shield number to § 87(2)(b)

Allegation M – Abuse of Authority: PO Juan Morales refused to provide his name and shield number to § 87(2)(b)

According to § 87(2)(b) he asked Sgt. Serpani for his name and shield number, and Sgt. Serpani allegedly provided § 87(2)(b) with a false name and did not provide his shield number. After § 87(2)(b) received two summonses, PO Amador allegedly refused to give § 87(2)(b) his name and shield number when requested to do so, and PO Morales allegedly ignored § 87(2)(b)'s request for his name and shield number (Board Review 12).

PO Amador did not recall being asked for his name or shield number, and PO Amador did not hear § 87(2)(b) ask PO Morales for his name or shield number (Board Review 13). PO Morales did not recall § 87(2)(b) asking either himself or PO Amador for their names and shield numbers (Board Review 14). Sgt. Serpani was not present when § 87(2)(b) allegedly asked PO Amador and PO Morales for their names and shield numbers (Board Review 12). Sgt. Serpani confirmed § 87(2)(b) asked for him for his name, but he did not recall being asked for his shield number. Sgt. Serpani said he pointed to his name plate which was visible on his uniform, and verbally stated his last name, “Serpani,” to § 87(2)(b) (Board Review 15). Due to the distance PO Amador and PO Morales were standing from Sgt. Serpani and § 87(2)(b) neither PO Amador nor PO Morales heard Sgt. Serpani and § 87(2)(b) converse (Board Review 13 and 14).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation H – Abuse of Authority: PO Juan Morales frisked § 87(2)(b)

§ 87(2)(b) testified during his CCRB interview that after being handcuffed and questioned by the officers, PO Morales patted down his body, including his jacket and pants pockets, prior to Sgt. Serpani's arrival (Board Review 12).

PO Morales and PO Amador did not recall whether PO Morales patted down § 87(2)(b) however, PO Morales stated that typically as procedure, civilian are frisked for weapons any time they are placed in handcuffs. PO Morales confirmed that § 87(2)(b) was handcuffed during the incident (Board Review 13 and 14). § 87(2)(g)

§ 87(2)(b) However, PO Morales testified that he did not recall whether the officers wanted to transport § 87(2)(b) to the stationhouse, nor whether the officers even conversed about doing so. PO Morales did not recall § 87(2)(b) being placed in a vehicle, nor whether § 87(2)(b) was considered under arrest at any point during the incident. Nothing on § 87(2)(b)'s person or about his appearance concerned PO Morales, and PO Morales did not recall suspecting § 87(2)(b) of being in possession of any contraband (Board Review 14).

§ 87(2)(g)

Patrol Guide Procedure 212-11 states that an officer may only frisk an individual who he reasonably suspects has committed, is committing, or is about to commit a felony or a Penal Law misdemeanor, if he also reasonably suspects that officers or others are in danger of physical injury (Board Review 1).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation I – Abuse of Authority: An officer searched § 87(2)(b)

§ 87(2)(b) alleged that either PO Amador or PO Morales searched him by unzipping his jacket and sticking his hands into the jacket's inner breast pockets. He was uncertain which officer did this.

§ 87(2)(g)

Allegation J – Abuse of Authority: PO Juan Morales searched § 87(2)(b)

According to § 87(2)(b) after he was frisked, PO Morales removed his wool hat from his head, turned it inside out, shook it, and placed it into § 87(2)(b)'s hoodie pocket, while speaking to him about drugs (Board Review 12).

While PO Morales acknowledged that he did not recall if he frisked § 87(2)(b) he outright denied searching him. PO Morales denied removing a wool hat from § 87(2)(b)'s head, and did not recalling any officer searching § 87(2)(b) or speaking to him about drugs (Board Review 14). PO Amador did not recall § 87(2)(b) wearing a wool hat, or being searched (Board Review 13).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Allegation O – Other: There is evidence suggesting PO Numael Amador provided a false official statement in violation of Patrol Guide Procedure 203-08.

The CCRB recommends that the NYPD conduct further investigation, as there is evidence to suggest that PO Amador provided a false official statement. The evidence is as follows.

The investigation determined, based upon statements from § 87(2)(b) and Sgt. Serpani, in addition to video evidence, that PO Amador was aware § 87(2)(b) had video recorded the incident and removed § 87(2)(b)'s cell phone from his hand (Board Review 5, 11, 12, and 15).

During PO Amador's July 13, 2015 interview at the CCRB, PO Amador confirmed observing a cell phone in § 87(2)(b)'s hand, but indicated that he did not know what § 87(2)(b) was doing with his cell phone. During PO Amador's CCRB interview, Inv. Dempsey asked PO Amador about § 87(2)(b)'s cell phone, and the following exchange occurred (Board Review 13):

[18:16] Inv. Dempsey: "Once § 87(2)(b) was placed in handcuffs, what happened to

Squad: 14

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date



POLICE DEPARTMENT CITY OF NEW YORK

December 27, 2016

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Numael Amador
Tax Registry No. 953634
Strategic Response Group 3
Disciplinary Case No. 2015-14572

Charges and Specifications:

1. Said Police Officer Numael Amador,¹ on or about March 29, 2015, at approximately 2147 hours, while assigned to the 83rd Precinct and on duty, in the vicinity of Maria Hernandez Park near Knickerbocker Avenue and Sutdam Avenue, Kings County, was discourteous to Daniel Teitell, in that Police Officer Numael Amador stated to Daniel Teitell that he was, in sum and substance, a "smartass."
P.G. 203-10 Page 1, Paragraph 5 - PUBLIC CONTACT - PROHIBITED CONDUCT
2. Said Police Officer Numael Amador, on or about March 29, 2015, at approximately 2147 hours, while assigned to the 83rd Precinct and on duty, in the vicinity of Maria Hernandez Park near Knickerbocker Avenue and Sutdam Avenue, Kings County, engaged in conduct prejudicial to the good order, efficiency, or discipline of the New York City Police Department, in that he temporarily seized Daniel Teitell's cellular phone without sufficient legal authority.
P.G. 203-10 Page 1, Paragraph 5 - PUBLIC CONTACT - PROHIBITED CONDUCT
3. Said Police Officer Numael Amador, on or about March 29, 2015, at approximately 2147 hours, while assigned to the 83rd Precinct and on duty, in the vicinity of Maria Hernandez Park near Knickerbocker Avenue and Sutdam Avenue, Kings County, engaged in conduct prejudicial to the good order, efficiency or discipline of the New York City Police Department, in that he caused a summons to be issued to Daniel Teitell for being in violation of Parks Rules section 1-03(a) (3), remaining in the park after dusk despite the fact that there were signs posted, at the above-mentioned location, that states (sic) Park Rules prohibit entering the park after it is closed at 2200 hours.
P.G. 203-10 Page 1, Paragraph 5 - PUBLIC CONTACT - PROHIBITED CONDUCT

¹ Respondent's last name is spelled Amador.

4. Said Police Officer Numael Amdador, on or about March 29, 2015, at approximately 2147 hours, while assigned to the 83rd Precinct and on duty, in the vicinity of Maria Hernandez Park near Knickerbocker Avenue and Sutdam Avenue, Kings County, engaged in conduct prejudicial to the good order, efficiency or discipline of the New York City Police Department, in that he caused a summons to be issued to Daniel Teitell for being in violation of Parks Rules section 1-03(c) (2), failure to comply with signs in the park that allegedly state "park closes at dusk" despite the fact that there were signs posted, at the above-mentioned location, that states (sic) Park Rules prohibit entering the park after it is closed at 2200 hours.

P.G. 203-10 Page 1, Paragraph 5 - PUBLIC CONTACT - PROHIBITED
CONDUCT

5. Said Police Officer Numael Amdador, on or about March 29, 2015, at approximately 2147 hours, while assigned to the 83rd Precinct and on duty, in the vicinity of Maria Hernandez Park near Knickerbocker Avenue and Sutdam Avenue, Kings County, engaged in conduct prejudicial to the good order, efficiency or discipline of the New York City Police Department, by threatening to arrest Daniel Teitell, without sufficient legal authority, in that Numael Amdador stated to Daniel Teitell that he was going to spend at least one night in jail in order to teach Daniel Teitell a lesson.

P.G. 203-10 Page 1, Paragraph 5 - PUBLIC CONTACT - PROHIBITED
CONDUCT

Appearances:

For CCRB-APU: Simone Manigo, Esq.
Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

For the Respondent: Michael Martinez, Esq.
Worth, Longworth & London, LLP
111 John Street-Suite 640
New York, NY 10038

Hearing Date:

October 3, 2016

Decision:

Respondent is found Guilty of Specification Nos. 3 and 4.

Respondent is found Not Guilty of Specification Nos. 1, 2 and 5.

Trial Commissioner:

ADCT Robert W. Vinal

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on October 3, 2016. Respondent, through his counsel, entered pleas of Not Guilty to the subject charges. The Civilian Complaint Review Board (CCRB) administrative prosecutor called Daniel Teitell and Edward Gilkes as witnesses. Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

After reviewing the evidence presented at the hearing, and assessing the credibility of the witnesses, I find Respondent Guilty of Specification Nos. 3 and 4 and Not Guilty of Specification Nos. 1, 2 and 5.

FINDINGS AND ANALYSIS

On March 29, 2015, at about 2147 hours, Respondent was on duty, partnered with Police Officer Morales, assigned to the 83 Precinct, performing Operation Impact patrol duties in the vicinity of Knickerbocker Avenue and Sutdam Avenue, Brooklyn, when they approached Daniel Teitell who was inside Maria Hernandez Park ("the park"). Respondent had a verbal interaction with Teitell; he took Teitell's cell phone out of his hand and placed it in the pocket of Teitell's sweatshirt; he handcuffed Teitell; and he subsequently issued Teitell two summonses alleging that he had committed two offenses under New York City Parks Department Rules (NYCPDR).² Respondent issued Teitell a summons for being in violation of NYCPDR section 1-03(a)(3), remaining in the park after dusk (CCRB Ex. 1), and Respondent also issued Teitell a summons for being in violation of NYCPDR section 103(c)(2), that he had failed to comply with a sign in the park which allegedly stated that the park closes at dusk. (CCRB Ex. 2)

² These Rules can be found on the Parks Department's Official Website at www.nycgovparks.org/rules.

Daniel Teitell testified that he was present inside the park on March 29, 2015, at about 2130 hours, when he saw Respondent and another officer enter the park and approach a Hispanic man who was sitting on a bench inside the park. Respondent and the other officer spoke to the man, but Teitell could not hear what they said to him. Teitell heard the man tell the officers in an annoyed voice that he was not doing anything. When Teitell saw the officers physically lift the man off of the bench, Teitell became "concerned" and so he took out his cellular phone out of his pocket and began video recording the encounter. (CCRB Ex. 3)

Respondent immediately walked over to him and asked him how he was doing that evening. Respondent then asked him if he had ID on him. Teitell replied by asking Respondent if he was being detained or if he was free to go. When Respondent again asked him if he had ID on him, he again asked if he was being detained or if he was free to go. Respondent then grabbed the cell phone out of his hands, placed it in Teitell's pocket, and then handcuffed Teitell. The other officer patted down Teitell's clothing. Respondent asked him what his age was, what his address was, and other questions of that nature. Respondent also asked him questions such as where he grew up and where he went to school. Teitell told Respondent that he was "going to remain silent."

Teitell testified that Respondent called him "a smartass" several times and that he also sarcastically called him "a lawyer," and told him, "You think you're so smart, you think you know your rights. I'm going to show you what your rights really are." Respondent told him that it was his prerogative as to whether Teitell would be arrested and taken to a precinct or just issued summonses and released at the park. Respondent also told Teitell that because he was being a "smartass" and chose to assert his rights, he was going to take Teitell to jail and that he would spend at least one night in jail. Teitell did not reply to these remarks. Respondent then

told him, speaking slowly, "I'm taking your wallet out of your pocket now to take your ID so I can run you for warrants." Respondent and the other officer then walked over to their car.

When Respondent came back he told him that a sergeant was coming. When the sergeant arrived he spoke with Respondent and his partner and then walked over to Teitell and told the other officer to remove the handcuffs. They had been on Teitell's wrists for 20 minutes. The sergeant asked Teitell to tell him what had happened and after Teitell described his encounter with Respondent, the sergeant told Teitell that he should comply with orders issued by officers and that as long as the warrant check on his ID showed that he had no outstanding warrants, he would be "sent home with summonses." The sergeant then left the park. About 20 minutes later, Respondent handed Teitell the two summonses cited above and Teitell left the park.

Teitell returned to the park several days later and took photographs of signs posted at the park (CCRB Ex. 4A-C) to "gather evidence that I might use in a civil case," including the sign at the entrance to the park which states that "this park closes at 10pm." (CCRB Ex. 4B) The two summonses were dismissed on the first date that Teitell appeared in Criminal Court.

Teitell acknowledged that he began video recording the encounter between Respondent and the Hispanic man because, "It's been my experience and observation that people of color are often treated not as well by police officers." He confirmed that he had previously recorded other police interactions with civilians "because I believe that's the best way to hold police officers accountable in the event that they commit misconduct." After this incident, he joined an organization whose members are dedicated to recording and documenting police interactions with civilians.

Teitell confirmed that he filed a civil action against Respondent regarding this incident and that he received \$20,000.00 from the City of New York to settle his lawsuit. Teitell was

confronted with the Notice of Claim ("The Notice") that his attorney filed to initiate his lawsuit (Rx. A). The Notice contains an allegation that Teitell had suffered "lost income" as a result of his encounter with Respondent. Teitell confirmed that this allegation was inaccurate because he had not suffered any loss of income. Teitell explained that he never told his attorney that he had suffered a loss of income, but that his attorney had, nonetheless, included this allegation in the Notice. Teitell confirmed that he had signed the Notice as the claimant and that he read it before he signed it. Teitell explained that when he signed this Notice, "It was my understanding that that was a generic document that included all those things that weren't specifically applicable to me."

Teitell was also confronted with the Complaint and Demand for Jury Trial ("Complaint") that his attorney prepared and filed regarding his lawsuit. Teitell confirmed that he had read and signed this Complaint. The Complaint contained an allegation that Teitell had suffered a "loss of property" as a result of his encounter with Respondent. Teitell testified that, "I personally do not claim that I lost any property" during this incident. He explained that his attorney had drafted the loss of property allegation in the Complaint; and that his attorney had "indicated to me that that was a generic statement of which some of things in that statement were accurate, to my understanding."

Edward Gilkes, a New York City Parks Department supervisor, manages parks in the Bushwick area of Brooklyn including Maria Hernandez Park which, since 2010, has had a Parks Department sign posted at the entrance to the park which states that "this park closes at 10pm." (CCRB Ex. 4B). He confirmed that some parks in the Bushwick area close at dusk.

Respondent's testimony at this trial will be discussed under the Analysis section.

Analysis

Specification Nos. 3 and 4

Respondent testified at this trial that although on March 29, 2015, he genuinely believed that Teitell was violating park rules by being present inside the park after dusk, he now realizes that the summonses he issued to Teitell (CCRB Exs.1 & 2) “were invalid” since Teitell had not violated any rule by being present inside the park prior to 2200 hours because the park did not close until 2200 hours.

Respondent’s attorney argued that because, as Gilkes testified, some parks in the Bushwick area close at dusk, Respondent’s issuance of the summonses merely constituted a mistake based on a reasonable assumption, not misconduct, and that the sergeant who arrived at the scene should have corrected Respondent’s mistake. However, as the officer who was issuing the summonses, it was Respondent’s duty to personally insure that his summonses were legally valid,³ and it is clear that he did not bother to look at the park rules on the sign posted at the entrance to the park which Gilkes testified has been there since 2010 and which clearly states that “(t)his park closes at 10 pm.” (CCRB Ex. 4B). Therefore, Respondent is found guilty of Specification Nos. 3 and 4.

Specification Nos. 1 and 5

The only evidence offered by the Administrative Prosecutor to meet her burden of proving that Respondent spoke discourteously to Teitell by calling him a “smartass” and that he also threatened to arrest Teitell by telling him that he was going to spend at least one night in jail in

³ See *Case No. 2010-86522* (signed Nov. 27, 2012), where an officer was found guilty of having issued a summons for Disorderly Conduct without sufficient legal authority because the officer mistakenly believed that he could charge a person with Disorderly Conduct even though he had not ordered the person to disperse, an order which constituted an essential element of the subdivision the officer charged the person with violating.

order to teach him a lesson, was the testimony of Teitell himself. I find that Teitell's testimony, standing alone,⁴ constitutes insufficiently reliable evidence to support guilty findings regarding these two charges.

Teitell's testimony must be closely scrutinized in light of the fact that he betrayed what can be characterized as preconceived notions about police encounters with civilians. Teitell acknowledged that he began recording the encounter between Respondent and the Hispanic man because, "It's been my experience and observation that people of color are often treated not as well by police officers," and that he had previously recorded other police interactions with civilians "because I believe that's the best way to hold police officers accountable in the event that they commit misconduct."

It is not disputed that Teitell did not tell either Respondent or the sergeant that his presence inside the park was lawful. Although Teitell knew that the park did not close until 10 p.m. and that his presence inside the park was, therefore, lawful, he admitted that when Respondent handed him summonses charging him with being inside the park after dusk, he did not inform Respondent that the charges were invalid. Thus, instead of seeking to avoid being served with the summonses, he allowed Respondent to serve him with summonses he knew were invalid. He asserted that he had not told Respondent or his partner that the charges were invalid because he "didn't have any reasonable belief that they would, you know, tear up the summons or anything at the time if I had said that." (Tr. 98).

However, Teitell's claim that he did not trust Respondent or his partner to void the invalid summonses does not explain why, after the sergeant told him that he would be "sent home with summonses," he did not inform the sergeant that the park did not close until 10 p.m. (Tr. 95).

⁴ Since the audio recorder on Teitell's cell phone was not working properly, there is no audio recording of what Respondent said to Teitell.

The sergeant had not been a party to Teitell's "traumatizing experience." (Tr. 98). On the contrary, it was the sergeant who ordered that he be unhandcuffed. The fact that Teitell did not tell the sergeant that the park did not close until 10 p.m. so that he could avoid being improperly charged with offenses he knew were invalid supports Respondent's position that Teitell wanted to be charged by Respondent so that he could sue Respondent. Teitell admitted that when he returned to the park just days later and took photographs of the signs posted at the park (CCRB Ex. 4A-C) he did so in order to "gather evidence that I might use in a civil case."

The reliability of Teitell's testimony must also be questioned in light of the fact that he signed two legal documents regarding his civil suit against Respondent even though he was aware that each of the documents contained an inaccurate factual allegation.

The Complaint that Teitell read and signed contains the allegation that Teitell had suffered a "loss of property" as a result of his encounter with Respondent. Teitell testified at this trial that he suffered no loss of property during this incident. Teitell asserted that his attorney had "indicated to me that that was a generic statement of which some of things in that statement were accurate, to my understanding." (Tr. 79-80).

The Notice contains the assertion that Teitell had "lost income" as a result of his encounter with Respondent. (RX A p. 2). Teitell read this Notice and signed it on June 4, 2015, only 25 days before he was interviewed about this incident at CCRB on June 29, 2015. Teitell asserted at this trial that when he signed this Notice, "It was my understanding that that was a generic document that included all those things that weren't specifically applicable to me." (Tr. 77).

However, on the "Verification" page of the Notice a paragraph immediately above the line where Teitell signed as "Claimant" states: "I, Daniel Teitell, being duly sworn, deposes and says: I am the claimant, and have read the foregoing Claim and know the contents thereof; that

the same is true to my own knowledge, except as to matters therein stated to be alleged on information and belief and that as to those matters I believe them to be true.” Thus, the false statement contained in the Notice that Teitell had “lost income” as a result of his encounter with Respondent was made by him pursuant to an oath, just as his testimony at this trial was under oath. Since I find that Teitell’s trial testimony is insufficiently reliable, Respondent is found not guilty of Specification Nos. 1 and 5.

Specification No. 2

Respondent is charged with having “temporarily seized Daniel Teitell’s cellular phone without sufficient legal authority.” It is not disputed that Respondent took Teitell’s phone out of his hand and placed handcuffs on Teitell’s wrists. The Administrative Prosecutor asserted that Respondent’s real motive in taking Teitell’s phone of his hand and placing handcuffs on Teitell was that Respondent was annoyed that Teitell had started video recording Respondent’s interaction with another man in the park. (Tr. p. 150)

However, Respondent is not charged here with having prevented Teitell from recording Respondent’s actions and, even if he was, the record does support the Administrative Prosecutor’s claim that Respondent only took Teitell’s phone out of his hand because Respondent was annoyed that Teitell was recording Respondent’s actions. The video in evidence shows that when Respondent walked over to Teitell, he did not immediately snatch his cell phone out of his hand. On the contrary, the video (CCRB Ex. 3) shows that he allowed Teitell to continue recording as he began conversing with Teitell. Also, when Teitell was asked on cross-examination, “So (is it) fair to say he took the phone out of your hand so that he’d be able to handcuff you?” Teitell answered, “Yes.” (Tr. 92). Thus, Teitell’s testimony supports Respondent’s claim that he only took the cell phone out of Teitell’s hand so that he could place

handcuffs on Teitell's wrists. Moreover, Teitell confirmed that Respondent never examined the phone, never pressed any buttons on the phone, and never turned the phone off or tampered with it. (Tr. 92).

As to that part of the charge that alleges that Respondent "temporarily seized" Teitell's cell phone, Teitell corroborated Respondent's claim that his possession of the phone was extremely temporary. Teitell testified that after Respondent took the cell phone out of his hands, he only held it "one or two seconds" (Tr. 49) before he placed it into the pocket of Teitell's sweatshirt. Since Respondent immediately returned Teitell's phone to him, I find that Respondent's extremely brief possession of the phone does not, by itself, constitute actionable misconduct. Therefore, Respondent is found Not Guilty of Specification No. 2.

PENALTY RECOMMENDATION

In order to determine an appropriate penalty, Respondent's service record was examined. *See Matter of Pell v. Board of Education*, 34 N.Y.2d 222 (1974). Respondent was appointed to the Department on January 9, 2013. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum. Respondent has no prior disciplinary record.

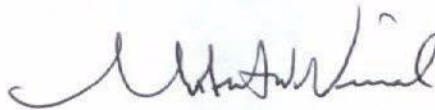
The CCRB Administrative Prosecutor recommended that Respondent forfeit 20 vacation days as a penalty. However, of the five specifications he was charged with, Respondent has only been found guilty of issuing two invalid summonses for violating park rules.

In *Case No. 2013-9872* (signed June 17, 2015), a 13-year officer who had no prior disciplinary adjudications forfeited two vacation days as a penalty after he pleaded guilty to a charge brought by CCRB that he had issued a summons to an individual for trespassing which was invalid. The veteran officer in that case also pleaded guilty to the additional charge that he had stopped the individual without sufficient legal authority.

Similarly, in *Case No. 2014-12345* (signed Sept. 1, 2015), an eight-year officer who had no prior disciplinary adjudications forfeited two vacation days as a penalty after he was found guilty at trial of having issued two summonses for obstructing vehicular and pedestrian traffic which were invalid because the individuals had not, in fact, committed that offense.

Therefore, I recommend that Respondent forfeit two vacation days as a penalty.

Respectfully submitted,



Robert W. Vinal
Assistant Deputy Commissioner Trials

APPROVED

MAY 04 2015

JAMES P. O'NEILL
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER NUMAEL AMADOR
TAX REGISTRY NO. 953634
DISCIPLINARY CASE NO. 2015-14572

Respondent received an overall rating of 3.5 on his 2015 annual performance evaluation, 3.5 on his 22-month probationary evaluation, and 3.5 on his 16-month probationary evaluation. He has no medals. [REDACTED] He has never been designated Chronic Sick. He has no prior disciplinary record and no monitoring records.

For your consideration.

Robert W. Vinal
Assistant Deputy Commissioner Trials